IN THE HIGH COURT OF PUNJAB AND HARYANA AT CHANDIGARH

C.R.No. 5068 of 2006
Date of decision : 26.3.2007

Smt. Joginder Kaur and others.

...Petitioners.

Versus

State of Haruyana and Anr.

...Respondents.

CORAM : HON'BLE MR. JUSTICE VINOD K. SHARMA

Present : Mr.G.S. Sandhawalia, Advocate
for the petitioners.

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VINOD K. SHARMA, J. (ORAL)

The present revision petition has been filed against the order passed by the learned executing Court ordering that the charge/lien be created on the property of the surety Parampal Singh son of Shri Jagjit Singh son of Shri Rajender Singh resident of village Sikanderpur, Tehsil and District Sirsa.

On the reference made under Section 18 of the Land Acquisition Act, the compensation payable by the State for acquisition was enhanced. The said order was challenged by the State of Haryana by filing a regular first appeal in this Court. By way of order dated 4.10.2000 it was ordered that 50% of the total amount including interest after reducing the amount already received should be paid to the claimants/land owners without surety and the balance should be deposited with the State Bank of Patiala, High Court Branch in fixed deposit. It is not in dispute that the

regular first appeal filed by the State was dismissed by this Court and the order passed by the learned Addl. District Judge, Sirsa was maintained. After the dismissal of the appeal an application was made for disbursement of the amount to the claimants/decree-holders. The petitioner/decree-holders thereafter moved an execution application in which it was ordered that a sum of Rs. 29,13,800/- (Rs. twenty nine lac, thirteen thousand and eight hundred only) be disbursed to the decree-holders on their furnishing security for a sum of Rs. 30,00,000/- (Rs. thirty lacs only) with one surety in the like amount to the satisfaction of the Court to safeguard the interest of the State in case the amount in question was ordered to be refunded to the State in appeal by the Hon'ble High Court or the Hon'ble Supreme Court of India. In pursuance to the said order the decree-holders furnished the requisite security bond along with the surety of Parampal Singh their relative. On furnishing of the surety bond the amount was released to the decree-holders. However, it was ordered that charge be created on the property of the surety. Some of the land owners moved an application for release of amount without any security as the regular first appeal stood dismissed. The said application was allowed by this Court on 11.1.2005 and it was ordered that the amount be remitted to the executing Court for disbursement to the claimants in accordance with law. Thereafter vide order dated 6.5.2005 this Court was pleased to order that the claimants were entitled for compensation without security as the appeal filed by the State as well as claimants stood already decided. However, in the case of the petitioner-decree-holders the learned executing Court has ordered the disbursement of the amount only on furnishing of security with one surety

and also on creating charge/lien on the property of the surety. No stay has been granted by the Hon'ble Supreme Court and, therefore, after dismissal of the appeal filed by the State the executing Court could not have ordered the furnishing of the security. The impugned order, therefore, cannot be sustained and is accordingly set aside. The executing Court is directed to release the payment to the decree-holders without security as ordered by this Court vide order dated 4.10.2000.

Revision stands allowed.

26.3.2007 **(VINOD K. SHARMA)**
'sp' **JUDGE**